OMC

OUTBOARD MARINE CORPORATION

100 Sea Horse Drive
Waukegan, Illinois 60085-2195
Phone 847/689-6200

July 26, 1999

Mr. Michael Bellot
U.S. EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

RE: Outboard Marine Corporation, IL, Site 0528
Y2K Compliance Assessment

Dear Mr. Bellot:

This letter is in response to your June 30, 1999 correspondence, regarding EPA's Year 2000 (Y2K) enforcement policy and its possible impact with ongoing treatment for the Waukegan Harbor Remedial project.

As requested, we have conducted an assessment of the three (3) Waukegan Harbor Category V wastewater treatment systems, which are the only automated systems associated with the Waukegan Harbor Remedial project. Based on an independent engineer's evaluation, we have determined that there will be no impact from Y2K. Enclosed is a copy of an independent engineer's report indicating Y2K compliance.

We believe that this letter and attachment satisfies your Y2K assessment request. Please contact me at 847 / 689-7046 or Mr. Anthony M. Montemurro at 847 / 689-5363 if you have any questions regarding this matter.

Sincerely,

Michael W. Rehor

Michael W. Rehor, P.E.
Corporate Manager, Environmental Services
Outboard Marine Corporation

MWR/amm
Enclosure

COPY

TRIAD
ENGINEERING
INCORPORATED

325 East Chicago Street
Milwaukee, Wisconsin 53202
414/291-8840
Fax: 414/291-8841

July 22, 1999

Mr. Anthony Montemurro
Outboard Marine Corporation
90 Sea Horse Drive
Waukegan, IL 60085

Dear Mr. Montemurro:

RE: **Outboard Marine Corporation – Waukegan**
Remediation Systems (Slip 3, East Cell, West Cell)
Control System Y2K Assessment
Waukegan, Illinois
Triad Engineering Incorporated Project No. W002482

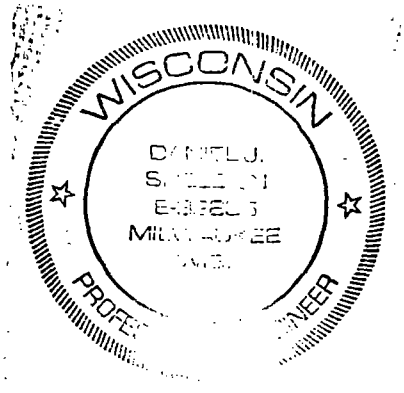
On behalf of Outboard Marine Corporation (OMC), Triad Engineering Incorporated (Triad) reviewed three remediation control systems for potential issues related to Y2K. Based on a site review conducted on July 20, 1999, all control systems utilize relays only and have no date related functions. No issues related to Y2K are anticipated at these sites.

We trust this information meets with your needs. Please do not hesitate to call Triad (414-291-8840) if you have any questions.

Sincerely,

TRIAD ENGINEERING INCORPORATED

Daniel J. Sheldon, P.E.
Senior Project Manager



c: Richard Binder/Triad

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:
SR-6J

June 30, 1999
OMC099001

Michael Rehor
OMC
190 Sea Horse Drive
Waukegan, IL 60085

Re: OMC

Dear Michael:

Enclosed for your information is a Federal Register notice and copy of EPA's Year 2000 enforcement policy, which encourages the prompt testing of equipment to determine any vulnerability to the Year 2000 (Y2K) technology equipment. The notice and policy were published in the Federal Register at 64 Fed. Reg. 1181-84 (March 10, 1999). Lists of types of equipment that may be impacted and possible locations of embedded chips are also enclosed. When the calendar changes to the year 2000, computers and other equipment with embedded computer chips may have difficulty interpreting the correct date. Some computers and equipment may contain embedded computer chips that become permanently unable to function properly. Others may continue to operate but erroneously. Others may simply stop operating. If site computer system or equipment malfunctions on January 1, 2000, there is a concern that environmental and health problems could result from a release of pollutants.

Because of the potential Y2K vulnerabilities, I am requesting that you assess, correct, and develop contingency plans as needed for the OMC site to determine compliance with Y2K technology under the authority of the existing Consent Decree. Note that at sites with multiple Operable Units (OUs), there may be variable actions to be taken at each OU, depending on the equipment and dates of activities taking place there. Please provide the following information regarding your efforts to ensure Y2K compliance and that protection of human health and the environment will not be compromised:

1. Your assessment of the site, including any inventory of equipment that may have a Y2K problem and results of tests of this equipment as needed to determine whether there is a potential for a Y2K impact.

2. If your assessment confirms that there will be no impacts from Y2K, notify me in writing by July 30, 1999 and clearly state that there are no Y2K impacts

anticipated at the site.

3. If you determine that corrective actions are needed to ensure there is no potential for Y2K impacts, notify me in writing by July 30, 1999. The notification should include a plan and schedule for corrective actions that specifies items such as equipment inventory, evaluation, testing and repair or replacement of affected equipment. EPA will be compiling this information for regulatory purposes. If you determine that repair or replacement may not be feasible, specify alternative measures such as manual operation in a contingency plan. Your contingency plan should also consider potential site impacts from general sector failures of utilities (electricity, gas, water etc.) and communication networks. Carry out your plan and schedule for corrective actions and report to me the status of Y2K compliance by September 30, 1999. Clearly state that you have determined that there are no Y2K impacts anticipated at the site; that you have a contingency plan in place for expected impacts (describe the impacts); or that the site is not Y2K compliant and describe your further plans and schedules for attaining compliance or implementing contingencies.

While EPA may offer comments on your plan, schedule or contingency plan based on knowledge of the facility, a lack of such comments and/or your compliance with this process is not a guarantee that your facility will attain Y2K compliance or that any failure to do so will be excused by EPA's Y2K enforcement policy. However, the Agency believes that this process will greatly assist in minimizing Y2K equipment failures.

If you have any questions concerning Y2K certification at the site, please contact me at 703 603-8716.

Sincerely,

Michael E. Bellot
Remedial Project Manager

Enclosures

[Federal Register: March 10, 1999 (Volume 64, Number 46)]
[Notices]
[Page 11881-11884]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr10mr99-84]

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6308-8]

Notice of Availability: Y2K Enforcement Policy

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability: Y2K Enforcement Policy.

SUMMARY: On November 30, 1998, EPA issued an enforcement policy designed to encourage prompt testing of computer-related equipment to ensure that environmental compliance is not impaired by the Y2K computer bug. Under the policy (published on the Internet at www.epa.gov/year2000), EPA stated its intent to waive 100% of the civil penalties that might otherwise apply, and to recommend against criminal prosecution, for environmental violations caused during specific tests that are designed to identify and eliminate Y2K-related malfunctions. The policy also stated that the civil penalty waiver and recommendation against criminal prosecution are limited to testing-related violations disclosed to EPA by February 1, 2000, and are subject to certain conditions, such as the need to design and conduct the tests well in advance of the dates in question, the need to conduct the tests for the shortest possible period of time necessary, the need to correct any testing-related violations immediately, and other conditions to ensure that protection of human health and the environment is not compromised. Today's notice publishes the entire policy for the first time in the Federal Register, to increase public awareness of this incentive to test computer-related systems and to incorporate several minor revisions aimed at clarifying the policy in response to public comment. The policy published today contains no major changes to the eligibility criteria announced on November 30, 1998.

ADDRESSES: Additional copies of the policy can be obtained on the

Internet at www.epa.gov/year2000, and through EPA's Enforcement and Compliance Docket Information Center (ECDIC), 1200 Pennsylvania Ave., N.W., Room

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4033, Washington, D.C. 20004. Copies of any case settlements resolved pursuant to the policy and a summary of responses to public comments may be obtained from the ECDIC, by calling 202-564-2614 or 202-564-2119, or by sending a request via FAX to 202-501-1011 or an e-mail message to docket.oeca@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: Any general comments on this policy may be directed to Gary A. Jonesi, Office of Regulatory Enforcement, at 202-564-4002 (202-564-0011 FAX) (jonesi.gary@epa.gov). Individual facility-specific concerns also may be directed to the EPA regional offices listed at the end of this notice.

SUPPLEMENTARY INFORMATION:

Background

The Y2K issue arises because a number of computerized functions require recognition of a specific year, day, and time, but many computers and computerized equipment recognize only the last two digits of a year's date (i.e., 1998 is 98; 2000 is 00). Therefore, when the calendar changes to the year 2000, computers and equipment with embedded computer chips may have difficulty interpreting the correct date. They may interpret the year to be 1900 or some other year. As a result, some computers and equipment containing embedded computer chips could become permanently unable to function properly. Others may continue to operate, but erroneously, while others simply may stop and need to be restarted. Some may create data that look correct, but in reality contain errors, and some may continue to operate correctly. In addition, some technical experts warn that certain computer-related systems may have trouble functioning properly on more than a dozen other dates arising over the next two years (see www.epa.gov/year2000/append1.htm for a listing of such dates). For example, as to September 9, 1999, the digital representation of that date, 9/9/99 (``four 9s''), may be interpreted as the end of a file or infinity, and, thus, may have unintended consequences. This policy encompasses concerns over computer-related testing problems that may arise as a result of any of the dozen or more dates. Together, these dates are referred to as Y2K for purposes of this enforcement policy.

Emphasis on Testing

The public expects compliance with the nation's environmental laws, and the regulated community must take all steps necessary to anticipate and resolve potential environmental compliance problems that may result from Y2K-related equipment problems by the dates in question (e.g., 9/9/99 and 1/1/00). In an effort to ensure timely compliance, EPA has adopted this enforcement policy to encourage any necessary testing of computer systems and their related environmental components (e.g, monitoring and pollution control devices) well in advance of these dates. Under this policy, EPA reiterates its commitment to firm yet fair enforcement of environmental requirements regardless of any potential Y2K-related problems. At the same time, this policy recognizes that regulated facilities can benefit from having an additional measure of predictability concerning how EPA intends to react if such testing results in environmental violations under any of the regulatory enforcement statutes that EPA implements.

Relationship to Y2K Dates

Although the focus of this policy is on testing-related violations that may occur prior to January 1, 2000, EPA notes that with respect to violations occurring after January 1, 2000, the Agency's longstanding enforcement response and penalty policies will continue to recognize a facility's good faith efforts and other potentially mitigating factors in determining an appropriate enforcement response. In that regard, facilities that test in accordance with the terms of this policy are likely to be in a more favorable position than facilities that do not, in the event that, despite a facility's best efforts at testing, the facility cannot correct all Y2K-related deficiencies in a timely manner.

Use of Existing Testing Procedures

Under EPA's Y2K enforcement policy, regulated facilities who wish to test in advance of the Y2K dates are encouraged first to utilize any existing regulatory or permit procedures that are applicable and that can provide a timely and effective process for testing. For example, the Resource Conservation and Recovery Act (RCRA) regulations provide for trial burn testing of hazardous waste (40 CFR 266.102), research, development, and demonstration permits (Sec. 270.65), and land treatment demonstrations (Sec. 270.63). To the extent that existing procedures under any statutory program are appropriate, their use will help to ensure that the federal, state, and/or local agencies and programs that already are best situated to oversee facility testing can

remain involved in that process. This enforcement policy does not modify, revoke, or otherwise affect any existing federal, state, or local permit, regulatory, or other (e.g., consent agreement) obligations, including but not limited to any public notice and comment requirements.

Criteria Justifying Application of This Policy

If no existing procedures are applicable, or if none are appropriate given the need to expedite testing, this Y2K enforcement policy states that EPA expects to exercise its discretion to waive 100% of the civil penalties that might otherwise apply and to recommend against criminal prosecution for violations resulting from specific tests, where the facility can meet its burden of demonstrating to EPA that it has satisfied all of the nine criteria below. (Because this policy anticipates immediate correction of violations (see # 5 below), any test-period noncompliance that qualifies for a 100% civil penalty waiver or recommendation against criminal prosecution will not create a significant economic benefit, since compliance costs will not have been avoided or delayed.)

(1) Systematic Design of Testing Protocols. Written testing protocols were designed in advance of the testing period, approved by the facility's responsible official, reflect a conscientious effort to evaluate the facility's Y2K-related environmental compliance status and not to circumvent environmental compliance, and were designed to prevent or limit violations that may result from such testing (e.g., through adoption or revision of appropriate contingency plans.)

(2) Violations Caused By Testing. The specific Y2K-related testing was the direct and proximate cause of the potential violations.

(3) Testing Need, Timing and Length. The specific testing that caused the potential violations was:

(a) Necessary to determine the effectiveness of specific Y2K-related modifications in ensuring environmental compliance;

(b) Part of a comprehensive testing program designed to correct all Y2K deficiencies at the facility;

(c) Conducted well in advance of the Y2K dates in question (i.e., normally at least 30 days in advance of the dates in question); and

(d) Conducted for the shortest possible period of time in order to determine the effectiveness of such modifications, ordinarily not to exceed a testing period of 24 hours in duration.

Where a facility, without making any modifications, tests existing equipment

in order to determine whether Y2K-related problems may affect its environmental compliance status, the specific testing was:

(e) Necessary to determine the effectiveness of its existing operations in ensuring environmental compliance;

(f) Part of a comprehensive testing program designed to correct all Y2K-related deficiencies at the facility;

(g) Conducted well in advance of the Y2K dates in question (i.e., normally at least 30 days in advance of the dates in question); and

(h) Conducted for the shortest possible period of time in order to ascertain the effectiveness of its existing operations in ensuring environmental compliance, ordinarily not to exceed a testing period of 24 hours in duration.

(4) Absence of Harm. The violations that may have occurred during testing did not result in creation of a potentially imminent and substantial endangerment (as EPA defines such threats under its RCRA section 7003 policies), or serious actual harm. Notwithstanding any civil penalty waivers or recommendations against criminal prosecution that may be appropriate under this policy, EPA retains its authority to seek any injunctive relief that it deems necessary, regardless of the level of harm, potential harm, or lack thereof.

(5) Immediate Correction. All violations ceased as soon as possible, not later than at the end of the test or immediately thereafter (within 24 hours).

(6) Expeditious Remediation. The facility expeditiously remediated any releases or other adverse health or environmental consequences as soon as possible, in accordance with any timing or other considerations that EPA may have specified (in the event that the Agency is involved in the remedial process).

(7) Reporting. The facility has met in a timely fashion all legal requirements for reporting the violations (e.g., CERCLA section 103). Where the violations are not legally required to be reported, the facility nevertheless reported the violations to EPA as expeditiously as practicable under the circumstances (ordinarily no more than 30 days after when the violations occurred absent unusual circumstances justifying a longer period), but in all cases no later than February 1, 2000.

(8) Retesting. Any retesting conducted prior to the Y2K dates in question met all the criteria outlined in this policy and included modifications to earlier testing and/or operating conditions that are reasonably designed to achieve full compliance.

(9) Cooperation. The facility provides any information requested by EPA as necessary to determine whether a 100% penalty waiver or recommendation against criminal prosecution is appropriate, consistent with the facility's legitimate legal rights and privileges.

Other Potentially Relevant Enforcement Policies

Other existing EPA self-policing and compliance assistance policies may continue to be utilized where they are not inconsistent with this policy. For example, EPA's Audit Policy (formally entitled, ``Incentives for Self-Policing: Discovery, Correction and Prevention of Violations,'' *60 FR 66706 (Dec. 22, 1995)*) and Small Business Policy (formally entitled, ``Policy on Compliance Incentives for Small Business,'' 61 FR 27984 (June 3, 1996)) potentially could be applied to any violations that result from Y2K-related equipment problems that occur during and/or after the testing period described in this policy. In addition, EPA's criminal enforcement policies guiding both the exercise of investigative discretion (formally entitled, ``The Exercise of Investigative Discretion,'' Jan. 12, 1994) and implementation of EPA's Audit Policy (formally entitled, ``Implementation of the Environmental Protection Agency's Self-Policing Policy for Disclosures Involving Potential Criminal Violations,'' Oct. 1, 1997) may be relevant in certain cases during and/or after the testing period described in this policy.

Public Disclosure of Y2K-Related Testing Violations

Similar to EPA's January 1997 memorandum concerning Confidentiality of Information Received Under Agency's Self-Disclosure Policy, EPA will make publicly available any disclosures under this Y2K enforcement policy, consistent with EPA's confidential business information (CBI) provisions found at 40 CFR part 2, but only after these matters are formally resolved.

Cooperation With States, Territories, and Tribal Governments

EPA encourages States, territories, and tribal governments to adopt this or a similar approach for addressing violations of environmental programs that they implement and enforce. EPA will coordinate closely with such governments concerning Y2K-related testing violations.

Disclaimer

This enforcement policy does not constitute final Agency action. It does not create any rights, duties, obligations, or defenses, implied or otherwise, in any persons or entities. It sets forth factors that EPA intends to use in the exercise of its enforcement discretion, and it is not intended for use in pleading, at hearing, at trial, or in any adjudicatory context.

Specific Compliance Concerns

Individual facility-specific concerns may be directed to the EPA regional offices listed below:

Region	States	Contact & phone No.	FAX No.
Region I	CT, ME, MA, NH, RI, VT	Director, Office of Environmental Stewardship 617-565-3800.	617-565-1141
Region II	NJ, NY, PR, VI	Director, Division of Enforcement and Compliance Assistance 212-637-4000.	212-637-4035
Region III	DE, DC, MD, PA, VA, WV	Director, Office of Enforcement, Compliance & Environmental Justice 215-814-2627.	215-814-2905
Region IV	AL, FL, GA, KY, NC, MS, SC, TN	Regional Counsel, 404-562-9655	404-562-9663
Region V	IL, IN, MI, MN, OH, WI	Regional Counsel, 312-886-2944	312-886-0747
Region VI	AR, LA, NM, OK, TX	Regional Counsel, 214-665-2125	214-665-2182
Region VII	IA, KS, MO, NE	Regional Counsel, 913-551-7010	913-551-7925
Region VIII	CO, MT, ND, SD, UT, WY	Director, Legal Enforcement Program, Office of Enforcement, Compliance, and Environmental Justice, 303-312-6890.	303-312-6953
Region IX	AZ, CA, HI, NV, AS, GU	Regional Counsel, 415-744-1365	415-744-1041
Region X	AK, ID, OR, WA	Regional Counsel, 206-553-1073	206-553-0163

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Dated: February 27, 1999.
Sylvia Lowrance,
Acting Assistant Administrator for Enforcement and Compliance Assurance.

[FR Doc. 99-5958 Filed 3-9-99; 8:45 am]
BILLING CODE 6560-50-P

Enclosure 2

POTENTIAL Y2K PROBLEM AREAS

Equipment at a Superfund site may be threatened by Y2K disruptions in a wide variety of computer or microchip controlled systems. The following equipment at your site may be susceptible to Y2K problems:

- ☐ Security systems
- ☐ Safety shutdown systems
- ☐ Automated leak detection devices
- ☐ Groundwater monitoring
- ☐ Laboratory analytical equipment
- ☐ Software used in automated reporting
- ☐ Recordkeeping, reporting, and tracking systems
- ☐ Waste treatment operating equipment
- ☐ Electronically controlled valves
- ☐ Emission monitoring equipment and control devices
- ☐ Landfill gas flares

In addition, the Y2K readiness of business associates must be considered. When planning your evaluation, consider the following:

- ☐ Those companies whose waste you manage or who manage your waste
- ☐ Vendors and suppliers (e.g. lab supplies, containers, or computer hardware and software
- ☐ Waste transporters (to and from site)

☐ Loading and distribution systems (fleet management, route management, collection, and sales)

☐ External financial and insurance programs (e.g. financial assurance data)

☐ Communications providers

☐ Utilities systems (electricity, natural gas, waste, sewage, grid stats, etc.)

Enclosure 3

POSSIBLE LOCATIONS OF EMBEDDED CHIPS

Communications Infrastructure

- Auto dialers
- Network bridge and routers
- Portable radio communication equipment
- Uninterruptible power supplies
- Wireless transmitters and receivers
- Voice/Data telecommunications equipment, including cell phones and pagers
- Uninterruptible Power Supplies

Instrumentation and Ancillary

- Automatic calibration systems
- Automatic sampling equipment
- Chemical analyzers
- Chemical feeders
- Hand held calibration equipment
- Lab and quality control instruments
- Maintenance diagnostic instruments
- Liquid flow meters (batch/totalizing)

Facilities and Support

- Battery chargers
- Building Heating, Venting, and Air Conditioning (HVAC) systems
- Building security systems
- Eyewash systems
- Fire and smoke alarm systems
- Programmable machining equipment
- Guard control systems
- Weather monitoring systems
- Uninterruptible Power Supplies
- Geographic Positioning System (GPS)
- Diagnostic Engine Analyzers
- Automated Fueling Systems

Materials Tracking

- Automated warehousing systems
- Bar code readers and printers
- Product/materials labeling and printing
- Wireless data terminals

Production and Process

- Automated reconditioning/ regeneration systems
- Distributed control systems
- Local controllers (programmable)
- Operator interface hardware
- Power monitoring equipment
- Programmable logic controllers (PLCs)
- Weight scales
- Demand management controls
- Hand held programming terminals and equipment
- Message displays
- Operator interface software
- Programmable chart recorders
- Data loggers
- Proprietary communications interfaces
- Supervisory Control and Data Acquisition System (SCADA) hardware and software
- Meter reading equipment
- Remote terminal units

Process Controls

- Flow meters
- Pump motor controllers
- Level controllers
- Flow controllers
- Chemical feeders
- Mixer speed controllers

- Aeration blower controllers
- Chlorinators